" Notwithstanding anything contained in these rules, the application shall be presented to the court by the applicant in person, or by an authorised agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.".

Question put and agreed to.

President.—The motion before the House is that in Rule 4 omit the words " when the applicant is allowed to appear by agent ".

Motion put and carried.

President.—The motion before the House is that the section as amended shall stand part of the Bill.

" where the application is in proper form and duly presented, the court may, if it thinks fit, examine the applicant, or his agent, regarding the merits of the claim and the property of the applicant ".

Question put and agreed to.

President.—The rest of the Bill may be taken to have been read in the House clause by clause.

All the clauses were put and agreed to. (*Vide Appendix*).

Mr. T. S. Narayana Ayyar.—Now, Sir, I beg to move that the Bill as reported by the Committee and as amended by the Council be taken up and passed on Friday, the 5th of December.

Mr. T. K. Krishna Menon.—I second it.

President.—The motion before the House is that the Civil Procedure Code as reported by the Committee and as amended by the Council be taken up and passed on Friday.

Motion put and carried.

Cochin Criminal Law Amendment Bill.

President.—The next item in the agenda is the Criminal Law Amendment Bill to be introduced by the Law Member.

Mr. T. S. Narayana Ayyar.—Sir, I move that the Bill further to amend the Cochin Penal Code, Regulation I of 1059 and the Code of Criminal Procedure, Regulation II of 1086, for a certain purpose, be read in Council.

Mr. T. K. Krishna Menon.—I second it.

Mr. T. S. Narayana Ayyar.—Sir, the certain purpose with which the Bill is concerned is to supply an apparent defect in the Penal Code, in as much as there is no provision there to make a deliberate and malicious act intended to outrage the religious feelings of any class of His Highness' subjects, by insulting its religion or religious feelings, penal. The form which is given in the Bill is the insertion of a new section 273A in the Penal Code, Regulation I of 1059. That section, Sir, I will read to the House. It runs as follows,

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"Whoever with deliberate and malicious intention of outraging the religious feelings of any class of His Highness' subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both".

The insertion of the Section in the Penal Code is only to make provision to meet cases of the nature specified therein. May I draw your attention to Section 276 of the Penal Code which makes uttering a word or making a sound in the hearing of a person with deliberate intent to wound his religious feelings an offence; and Section 139 A of the Penal Code which makes promoting of enmity between different classes of His Highness' subjects, penal? The new section is only another phase and is absolutely necessary to be introduced. Sir, the other provisions in the Bill are to be introduced in the Code of Criminal Procedure, Regulation II of 1086 to give power to the Government to declare publications forfeited and to issue search warrants for the same. Opportunity is taken that the matters punishable under Section 120 (Sedition Section) and 139 A (Promoting enmity between class and class) be included in the new Sections to be inserted, in the manner, as no machinery was provided therefor before, so that the provisions of the Code may be whole and complete. Now Sir, with your leave I will point out the new Sections. It goes without saying that there ought to be some provision in the law of the land that obnoxious publications should not be broadcasted and made available to the masses as the dangers arising therefrom are very tremendous. The Government should have powers to prescribe such articles but the House may rest assured that it will use them only very sparingly and in cases of need.

Mr. C. A. Kunjunni Raja.—Were there occasions of necessity for this?

Mr. T. S. Narayana Ayyar.—It will be put in use only if there is necessity. Several safeguards are there in the section itself. The order of forfeiture may be challenged in the highest court of the land and a Full Bench of the Chief Court has to hear and determine the matter. For taking it to the Chief Court, time is liberally provided for, namely, two months from the date of the order. I fully trust that, the measure being a necessary and reasonable one, I can confidently command the full sympathy and support of the Members of this House.

Mr. K. Ayyappan.—I oppose this Bill. In the statement of objects and reasons the mover of the bill has not clearly brought out the reasons for the present measure—I

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may say a most reactionary measure. He says it is necessary for the Government to have power to deal with certain publications. On a point of information, I would ask the Member whether the Government have come across any such literature already now. (*Hear, hear*).

Mr. T. S. Narayana Ayyar.—There are.

Mr. K. Ayyappan.—How many?

Mr. T. S. Narayana Ayyar.—Not less than three.

Mr. K. Ayyappan.—Only three pieces of publication have the Government come across and for those stray instances they are going to introduce a new Bill; and what is the Bill? It is to curtail the freedom of speech, freedom of writing, the real freedom of the people. It is a painful necessity of mine to oppose this Bill, which the Government have brought in, in the name of law and order. I am not against the Government preserving law and order. I will not be a party to any movement or any attempt to create difficulties in the way of Government preserving law and order. But we have been preserving law and order without the help of this mischievous piece of legislation till now. What are the new conditions that have arisen in the country which justify the Government to have recourse to this measure? They will say that they want to copy British Indian Law. In British India there might be justification for enacting such a law. Here in Cochin people are very law abiding and peace loving (*Hear, hear*). Here we are most noisy, most strong-worded in the Council, but when we go outside we are most constitutional. (*Laughter*). Are the Government going to reward our law abiding habit with this sort of legislation? I think the Government is going to court sedition, by this unnecessary, uncalled for, uncivilised and reactionary piece of legislation. We should not copy unnecessary things. We should not copy reactionary legislation. There may be times when Government will be forced to have recourse to such measures. Such a time has not arisen in Cochin. It will be an insult to the people of Cochin to introduce such a measure. I am speaking as a representative of the press also. The Government may say that they will not use the new power which they get by this law. Why should they have it then? That is my question. I don't want breaking of law and outraging of religious sentiments to go unpunished. Let it be punished in the normal civilised way of punishing crimes.

Now the journalists here are poor people. It is a disgrace to the country too. And the Government ask them to have the difficulty of moving the Chief Court if they are punished by the

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executive authorities. What a difficulty it will be for them! Unknowingly I might be sometimes outraging the religious feelings and sentiments of many. I might be expressing something which is seditious unknowingly and unintentionally because I am not well-versed in law. But Government will proscribe my writings first on the report of some Head constable or some other big personages. They have given me a relief of going to a lawyer and paying him and asking him to move the Chief Court to relieve me. I warn the Government that it is an unnecessary measure. It will be an apple of discord in the country. Why should we introduce such measures in the country unnecessarily? I am for law and order. I can really appreciate the Government's difficulties on certain occasions. But those occasions and conditions have not arisen here. Therefore I ask this House to oppose this Bill unanimously.

Mr. A. B. Salem.—May I know whether this is the copy of the latest British Indian Criminal Law?

Dr. A. R. Menon.—Almost the same!

President.—Whether it is a copy of the British Indian enactment or not, it does not matter. In any case it has to be discussed on its own merits.

Mr. E. Ikkanda Warriar.—Sir, I wish to oppose the introduction of this Bill. It is an encroachment upon the fundamental and most elementary rights of every man to be heard before he is condemned. I have not so much complaint against the amendment of the Penal Code, as I have against the provisions for the amendment of the Criminal Procedure Code. So far as Section (1) is concerned it enacts only a punishment for certain offences after a due trial by a competent tribunal. I have no quarrel against it. But what happens in the other case is this. It gives the police a right to confiscate any printed matter, whether a newspaper or a pamphlet, wherever found. It may be said that it is the Government that finally passes the order. But as a matter of fact, we know how this machinery works. As a rule the Government officers, particularly the Executive Head of the Government are not men with any judicial training and even if they are, they are not likely to exercise their judicial minds in cases like these. They are likely to be carried away by influences and considerations other than judicial and I am sure that there are more chances of this provision being abused than used for any prupose. Except the categorical statement, that it is absolutely necessary, by the Hon'ble Member for Law, I do not think he has cited any instance where it has been found that the existing state of affairs requires such an enactment. These are provisions which we find in that obnoxious

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Press Act of 1910 which did great havoc throughout British India to the liberties of the British Indian subjects. After a long and protracted agitation, this Act was repealed, I think in 1922. Then after a few years, taking advantage of some unfortunate communal dissensions in Northern India, this was again introduced in 1926 in the shape of a Criminal Law Amendment Bill. It was passed through the Legislature in a thin House, where the attendance of non-officials was very small. My submission is that there is absolutely nothing in our State which warrants an encroachment on the liberties of the public in this fashion. It will be a standing menace to the liberties of the Press and the public, if enacted. It is not necessary either. The fact that an appeal is provided in the subsequent provisions is absolutely of no use. It is just like putting the cart before the horse. Why not face a trial in a court of law? You yourselves admit that there had been only three stray cases which required special treatment. What has happened in those cases? So far as we are aware nothing untoward has happened in this country, we do not know what the nature of those cases and whether they relate to books, phamphlets or newspapers. Have you taken any action in those cases? Are not the arms of the ordinary law of the land long enough to reach those offenders? Why not give an opportunity to every man to vindicate himself before he is condemned? I therefore submit that it is a most dangerous and mischievous power which we are going to give the Government by enacting this piece of legislation and I request every Member of the Council to oppose it.

Dr. A. R. Menon.—I am going to violate the law I have laid down for my guidance, not to enter into the arena of jurisprudence when able legal Members are discussing this question. But it seems to me that the proposition placed before us is so outrageous to the dignity of the law itself, that even an ignorant layman considers it his duty to oppose that measure in order to maintain the dignity of the law. That is the position. Sir, the history of the human race is nothing more or less than a constant, continuous fight between law and authority on the one side and liberty on the other and every impartial man must realise and must admit that reasons have been assigned on both sides why it should be enacted and why it should not be enacted. We have a justification for the enactment of this measure, fallen from the lips of one of the ablest Members of the legal profession in the State, and it would be a very dangerous thing for me to try to cross words with such an eminent authority of law. I shall therefore lay aside the legal aspect of the various questions

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and, as pertaining to a layman, shall discuss what the general effect of such a measure, conceived and enacted in the spirit, is bound to produce upon a law-abiding, a noisy but harmless, set of people who live in this State. I submit that whenever any such law, an extraordinary law as I call it, is to be introduced and placed on the Statute Book, it will be the duty of the Government to prove two things. They must be in a position to show to this House, to our entire satisfaction, that the existing law is not sufficient to cope with the mischief and they must also be able to prove that the mischief has, of late, assumed a larger proportion than ought to be allowed to exist in the State. When a question was addressed to the learned Government Advocate, the Hon'ble Member sitting on the other side, he said that at a time, at a stirring time, through which India was passing, there were three cases of this nature, which will not face the Judge. Why don't you prosecute? Therefore I take, that if the Government does not prosecute the person, I think, the learned gentleman has advised the Government that a case does not lie and a case cannot stand. That is what I take it and that is what an ordinary layman can take it. You say there are three cases of sedition. You say that they were not prosecuted. Why? Because you are convinced, at least you think, that there is no specific case to go before a court. Therefore, these three cases, supposed to be seditious or really seditious cases, shall not be taken as constituting a state of affairs which will compel the Government to bring forward this extraordinary measure. That is the position that I want to place before the Government. There is a higher policy in all these matters. One general principle which is accepted by all is, wherever possible and whenever possible, there shall be no restriction for the people. The less the number of laws in the Statute Book, the better the management of the country. The greater the number, the greater the cause for grievances and vexations for the subjects. Are you going to tell us that the Government is increasing vexation, is increasing grievances, of the people? If you come forward to remove certain laws from the Statute Book I shall certainly stand and congratulate the Government. You are going to increase the law. What for? Simply there are three cases which cannot be lodged before a court.

There is another thing. A Government that is sustained and supported by the joint moral support of the people is the strongest, is the best and the noblest form of Government. I ask the Government not to resort to this measure because, by resorting to it, they are weakening their own position. It is the

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boast of this country, and I know what I am speaking, that it enjoys a liberty of speech and writing. It cannot be a boast by any of the people but it implies that we have an amount of liberty which even many of the European countries do not enjoy.

Another boast of this country is that it is the best educated country in the whole of India. The Director of Public Instruction will tell you that 92 per cent of our population are literate. Where can you get such a high percentage of literacy without compulsion? That gives you a hint of the psychology to educate themselves and education means realisation of their power and also realisation of their limitation and also makes them respect the law. If after all these, if you have not succeeded in keeping our people under control without extraordinary law, then, I submit, the Director of Public Instruction and his department has no business to exist. The primary object of education is to make us law abiding, make us more decent and reasonable citizens and if our education has succeeded only in enacting such laws, if the Government find it necessary to inaugurate such laws, then as I said, I repeat that all these money spent upon education is a mere waste, a costly waste and an unjust waste. Now there is another point that I wish to bring to the notice of this House. When was this bill published in the Gazette? I want to strike a personal note, that is, if the present Government, after reviewing the existing situation for two or three months, if they are convinced, I say the present Government, if they are convinced, that such a law is necessary and if they come again into this House and ask us to support them, I personally shall get up and support such a measure. What I say is whether this enactment was necessary in olden times or not, my position is, it is not necessary now.

Mr. E. Ikkanda Warriar.—It was never necessary.

Dr. A. R. Menon.—It is not necessary now and I again make a suggestion that, whatever may be the nationality of the Head of the Administration, we always expect that he will respect our sentiments. We want each head of the administration to realise our feelings, our sentimates. This is going to restrict, this is going to wound, our feelings and susceptibilities. Susceptibilities are as important as the material things and a Government which does not respect the feelings and susceptibilities is creating unnecessary trouble. Therefore, after realising this and after realising that a large portion of the public are behind the Government in all constitutional methods that they resort to, the Government may come forward, and in

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the teeth of our opposition, if you like, you may come forward and the House will surely support the Government, thereby strengthening the moral support, giving that moral support which is essential. I say this, because I want the Head of the Administration to place himself as one of the State, so that we may feel he is one of us and a part of us and I shall also submit that the first action of the present administration should not be a law of this nature. What will others think when they see the newspapers? Here is a country which is discontent with sedition. Is it true? Will the Government get up and say it is all really a talk? Is there any discontent here, any organised disobedience of law? At a time when the whole of India is stirred up, you are passing this law. The natural deduction that will be drawn from such an action will be that after all this small State is also in a ferment, is in a strife and the Government is compelled to resort to such extraordinary measures which reflects, I submit, a discredit upon our very, very good administration. It reflects discredit upon our intelligence, upon our senses, upon our education and shall I say, upon our general wisdom and our constitution-loving nature. For these various reasons I wish to oppose this measure and whether you pass it or not it is better to have protested than not to have protested at all.

Mr. A. B. Salem.—Sir, I also oppose this measure. To my mind the necessity has not even been stated by the Hon'ble Member who moved for the introduction of this bill. That is the reason why I put the question, whether this Criminal Procedure Code Amendment Act is a copy of the amendment recently gone through in British India. We know the Congress movement has compelled the Government to go on these lines and see how far they can contend with this weapon that movement. But here, what is it that has made the Government to bring in such a measure into this House? Now, Sir, the fundamental principle of every educated country is to give ample facilities for the people to express themselves. The right of expressing oneself is an inherent right and facilities must be given in an efficietly educated country. As my Hon'ble friend from Trichur has stated, it will be sad for us to reflect that the moment we had a freedom-loving Englishman, as the Head of the Administration, that such a law was introduced here. Are we to take that we are judged so soon, in the course of two months, as very rampant and malicious in our writings and in our speeches that we need curtailment of it? That will be the impression that would be created outside, which we want to avoid.

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Mr. E. Ikkanda Warriar.—It was thought before.

Mr. A. B. Salem.—To express without reserve is a fundamental right which we are very unwilling to part with.

Mr. C. A. Kunjunni Raja.—That has been published in the Gazette once.

Mr. A. B. Salem.—It is brought into this House now. They could have withdrawn it. We can understand, if there were sufficient number of cases of sedition, civil disobedience, picketing and all that in our courts. Then, of course, we must grapple with the situation. An emergency must have risen which necessitates the Government for enacting such a measure. No such emergency has arisen in the Cochin State, and therefore, it is a very unnecessary piece of legislation that is being brought before this House; and as it curtails the fundamental right of freedom of speech and writing, in other words freedom of expression, we must certainly opposeit. We are all very freedom-loving people who make speeches every day and we do not like policemen to report that our speeches are seditious. We may be commenting upon things taking place in British India! We may be commenting upon our connection with British India! We may be commenting upon the Round Table Conference! We may be commenting upon the Federation, in which we may be and we may be commenting upon the Dominion Status! A policeman will report that all this is sedition and all, that has been reported in Bombay, is being repeated on the 'maidan' by Mr. Salem. This measure, if passed, gives a right to search my house and take all the papers, thousands and thousands of papers you have got there, and I must run after them. That is a sort of thing to which I personally cannot be a partner. I say we have got a very humorous piece of country. We may speak, laugh and for the time being enjoy; afterwards everybody forgets everything. There is no malice in anything. I ask the Government Advocate to point out a single case of malicious intent, in our speeches or in our writings in the Cochin State, during the last 10 years, to justify such a measure. We have made speeches against the Diwan, we have made speeches against the system of administration, we have pressed our demands but we have not crossed the limits at all and why, when we have got such a record, our good record be tarnished by this black brush? This is going to tarnish the fair name of Cochin and this must be opposed by every Member, whatever be his race or nationality to which he may belong to. I therefore oppose this measure.

Mr. Thomas Manjuran.—May I know why this Bill is introduced as one when it relates to two branches of the law.

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Section 273 A is na amendment to the Penal Code. Why should that unobjectionable part of the amendment be mixed with what is really objectionable. May I know if there is any reason? You cannot put everything together. I believe that is acceptable to this House.

Mr. A. B. Salem.—That is not what they want.

Mr. Thomas Manjuran.—As regards the other I have just two words to say. For one thing it seems to give plenary powers to the police which, unless there is the strongest necessity, should be opposed by every liberty loving member. The 10th line in 84 A. (b) contrasted with the 11th line reads rather curious. That is, "and every copy of such book or other document, to be forfeited to the Government and thereupon any Police officer may seize the same, wherever found in Cochin, and any Magistrate may, by warrant, authorise any Police officer not below the rank of Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be". Now that looks curious. If a Magistrate were to issue a warrant it is only an Inspector who can get into the private premises. Whereas any Police officer can get into any house if he suspects.

President.—We are dealing with the general principles.

Mr. Thomas Manjuran.—I am only submitting that when you have got a Bill before the House based upon general principles which contains this sort of provisions this House is bound to protest. I agree with every word that has been said about the absence of necessity for such a Bill. Unless there is the strongest necessity it will be very inopportune to introduce a Bill like this because it is no excuse to say that the Bill may not be used. Bills like this have a tendency of creating dis-satisfaction. We have had those famous or infamous Rowlatt Bills over which there were years of agitation. I don't think this House will stand against necessary legislation. The question is whether there is any such necessity to-day.

Mr. C. A. Kunjunni Raja.—I rise to oppose this motion. I was waiting to see if the Law Member will place materials before the House to convince us with regard to the necessity for this legislation in Cochin with reference to the existing condition. Fortunately for us we are not referred to any dangerous situation here. He was simply saying that it is an adaptation from the corresponding British enactment. It is necessary to see what are the powers with which the executive is now armed to meet the situation contemplated by the Bill. The law with regard to the offences relating to religion is contained in Chapter XIV of our Penal Code. The sections are 273 to 277 of the

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Code. For the information of those Members who may not have read these sections I shall read. The Council has to see whether these sections are not wide enough and whether any publication of any literature offending any religion will not be an offence under these sections. To me it appears any objectionable publication can very well be brought under one or the other of these sections and there is no necessity for a fresh enactment creating a new offence.

Section 273 reads:—"Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement, as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

Explanation:—A building consecrated or set apart for habitual use by a religious community or sect for purposes of common worship is a place of public worship within the meaning of this section.

Exception.—A private residence or school not so set apart shall not be deemed a place of public worship within the meaning of this section merely by reason of prayers or services being held there.

274—Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 275.—Whoever with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded or that the religion of any person is likely to be insulted thereby commits any trespass in any place of worship or on any place of sepulchre or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.

Section 276.—Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person, or places any object in the sight of that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 277.—Whoever wilfully compels any person by means of threat or violence to adopt, practise, or profess, any particular form of religious belief shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Explanation.—This section is not intended to restrict the authority of parents or guardians to instruct their children in any particular religious faith or to require them to attend any particular place of worship or religious institution". Not being satisfied with these sections an amendment was introduced into our Penal Code by section 139-A, which corresponds to 153 A of the British Code. That section is also very wide in its terms.

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Section 139-A.—" Whoever, by words, either spoken or written or by signs or by visible representations or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of His Highness' subjects shall be punished with imprisonment which may extend to two years or with fine, or with both.

Explanation,—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal matters which are producing or have a tendency to produce, feelings of enmity, or harted between different classes of His Highness' subjects".

In our Penal Code there is no corresponding provision which is now attempted to be introduced as 273-A. My first point is these sections, which I have now read to this House, are sufficiently wide enough for our purposes and any attempt to attack any religion can be brought under these sections and the executive can very well resort to these sections and the proposed enactment is quite unnecessary. Then with regard to the other amendment of the Procedure Code this is what I have to say in the adoptation of the British enactment proposed here. There is some difference in the scope of the section. 273-A is not included in the British Criminal Procedure Code Amendment Act. That section covers only 124-A and 153-A of the British Code corresponding to 120 and 139-A of our Regulation. 273-A is an innovation attempted to be introduced here. The corresponding Bill in British India was introduced as the Criminal Law Amendment Bill in the Legislative Assembly at the end of 1926, when that Assembly was about to be dissolved as we are also here about to be dissolved. The bill was introduced by the Hon'ble Sir Alexander Muddiman and the discussion covers a large number of pages in the printed report from pages 304 to 403. Many of our leading men in British India have taken part in the discussion. Mr. Yakkub has supported the measure while Sir Hari Singh Gour, Lala Lajapat Rai and other respectable members have opposed the measure. Pandit Madan Mohan Malaviya, Sir Siva Swami Ayyar and a few others have suggested certain changes in the measure. The main argument of Sir Alexander Muddiman was that communal troubles were rampant in British India and the Government had to be provided with power to confiscate vicious literature so that it may not be allowed to spread in the country. (*Hear, hear*). Otherwise, before the Government, after going through a protracted trial in a court, get a conviction and a confiscatory order, the whole thing will be spread in the country and it was to avoid that, power was taken under that enactment. Here so far as I am aware the only communal trouble is with regard to a few appointments. There is no

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other communal or religious trouble. You will not find a land which is more tolerant anywhere. This land received with open hands the Jews, Christians and the Muhammedans. Sir, Hari Singh Gour in a way admitted that there was some anxiety because there was the religious and communal trouble. It was after the Kohat incident and there were several riots in Bengal before this bill was introduced there and that was sufficient justification. This Council has to see the wide scope of sedition under section 124-A, corresponding to 120. Under the bill it is for the executive to decide what is sedition in the first instance. Subsequently of course the editor or the author can go to the Chief Court. For your information I shall read section 120. This is how it reads:—'whoever by words either spoken or written or by signs or by visible representations or otherwise brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government of His Highness the Raja or the Government established by law in British India shall be punished with imprisonment for life or any shorter term to which fine may be added or with imprisonment which may extend to three years to which fine may be added or with fine.

Explanation 1.—The expression disaffection includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section." Is it safe for the Council to entrust the executive with the power to decide what is sedition in the first instance? With regard to the scope of this section, there is an interesting passage in the speech of Sir Hari Singh Gour.

President.—Why should you read the speeches made elsewhere? There is no time for that.

Mr. C. A. Kunjunni Raja.—I shall not read. Even the most reasonable comment is likely to create a feeling of enmity. That section is very wide and any comment can be brought within the ambit of section 120 and, under the bill, the Executive Government is to decide what is seditious. Of course the subsequent sections allow the procedure of a trial by a Full Bench of the Chief Court. That is putting the cart before the horse. So far as the newspapers in this country are concerned, I agree with the observations of the Member for the South Ezhuvas that our press is still in its infancy and it has to be kindly nourished to attain its full growth. Simply because some article, which is not approved by the executive, is published in a paper, if the paper is to be confiscated, I think it is likely, to be an abuse of the power, and the Executive Government will very often resort

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to this section, when attacks are made upon their own acts. The Executive is both the Judge as well as the prosecutor so far as these proceedings are concerned. That will be very dangerous to the safety and liberty of the press as well as of the subjects. It is for these reasons that I oppose this measure. From what I have seen, I am sure our press is not likely to give occasion for such apprehensions of abuse and danger to the Government.

Mr. K. P. Kannan Nayar.—I oppose this measure. The first part, as mentioned by some of the speakers, seems to be absolutely unobjectionable. And I have no complaint so far as that is concerned, because so far as the first part is concerned we are only defining an offence and providing a penalty for it. There is absolutely no objection for that. The preamble seems to be mischievous: 'it is necessary to have power to Government to deal with certain publications which are seditious or which would appear seditious'. Who is to decide whether a particular article is seditious or not ? It is advisable that the Government should have power when once an article is declared to be seditious by a competent tribunal. I do not see why the Executive Government should not have power then. But to say an article is seditious by the Executive Government itself and to proscribe it all at once and ask the person to invoke the assistance of the Full Bench of the Chief Court, by means of a petition, seems to be putting the cart before the horse. On principle, I think it curtails to a very large extent the substantial right of the citizen. You have got competent courts here established and they are competent enough to decide, whether a particular article or publication is offensive, from a point of view of the Penal Code or the point of view of the Procedure Code is concerned. And if you want an amendment like Section 273-A., by all means do it. But to go further and say that, if it appears to you, that is, to the Executive Government, whatever be the opinion that may be afterwards expressed by an enquiry in the Chief Court itself, you should have the power, I cannot agree. Supposing the Chief Court says that the whole thing was a mistake, how are you going to compensate the poor printer or the poor publisher for the mischiefs your officers may be doing by having the houses searched and things taken and all that ? You drive him to the Chief Court for remedy. Suppose the Chief Court says that the particular act was unjustifiable, is there any compensation for the printer? So far as the particular paper is concerned, if it contains seditious matter, then we have ample provisions in the Criminal Procedure Code. I refer to Section 93

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of the Criminal Procedure Code. So far as the printer is concerned, he may be called upon before the District Magistrate and asked to execute a bond and, if he fails to execute the bond, he may be committed to prison. It is certainly unnecessary for the Executive Government to take action under the guise of these provisions, that is, to decide beforehand whether a particular article or publication is seditious or is intended to create disaffection or disloyalty. If you think that any particular man has committed an offence get him convicted. If you think that there is no sufficient provision, even after conviction, to stop the publication or to proscribe it, alright, have some provision made for that. But to go in advance and take action and proscribe all these things and leave the poor printer to the mercy of the tender lawyer, mentioned by my learned friend here, and to the court is something absolutely revolting so far as the liberty of the Press itself is concerned. So, unless there is very strong necessity disclosed by newspapers disseminating sedition on a very large scale, I do not think it is worthwhile for the Government to all at once introduce such a Bill. I would request the Government Advocate, for the time being, to suspend any further actions so far as this matter is concerned and if the mischief is ripe enough and it has to be controlled, then certainly we are not here to go against law and order. We will extend our hearty support so far as such a thing is concerned. If we really think that the Government may have such powers we shall not be men standing against it. To us, from the speech made by the Government Advocate, there is no necessity for making such a revolutionary measure. So far as the very principle is concerned, to ask the man to go to the court and get it decided, what a costly procedure would it be? Do you think that any man and every man will be able to seek the assistance of the court? You have got competent tribunals here. There is the Sessions Judge, the Magistrate and you have got all competent tribunals, and if you think that any matter is objectionable, alright, have it decided there, *i. e.*, in these courts. If you get a conviction reserve some power for stopping or proscribing. So far as the principle itself is concerned, do not put the cart before the horse.

Mr. A. B. Salem.—Sir, I move 'that the question be now put' under Standing Order 25.

Mr. P. Krishna Menon.—I second it.

Motion put and agreed to.

Mr. T. S. Narayana Ayyar.—Well, the opposition, that is levelled against the introduction of the measure, does not seem to be an opposition at all. When I make the observation I

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should not be misunderstood. Some of the Members seem to think that an amendment to the Penal Code, in the way proposed, may go in. Some say that placing on the Statute Book a law of this nature is really disgraceful, infamous and all that. The sedition section 120 is already there. Is it a disgrace to us? Other sections are there, such as murder, etc. Is it a disgrace to us? The Indian Penal Code contains as many as 500 and odd sections and are we doing the offences every day in our life? You will all agree with me in thinking that there ought to be a machinery by which persons who commit offences ought to be brought to book.

Mr. C. J. Mathew.—If they be hanged without trial?

Mr. T. S. Narayana Ayyar.—I merely submitted to the House just now that if offences are to be committed there is no harm in providing for them. There ought to be a law by which such offenders ought to be brought to book. If that is conceded, the only question is whether there ought not to be a machinery by which we ought to bring them to book. It is said, let there be trial first, let the offence for which the man is charged be made out in the first instance, there need not be proscription. The answer is already there, *viz*., you think that when the whole mischief has been done, the man may be charged and punished. I go a step earlier and say prevention is better than cure. Without disseminating the matter, which is obnoxious, let us hush it up, by sizeing all such filthy literature, which need not find its way into the hands of the masses, which are illiterate, into the hands of those who are inflammable. What I say is, there is no use of disseminating the matter and then try the man for punishing him for the offence he has done. It is better that it does not find its way at all into the hands of people who are not likely to use it properly. And this is not merely meant for us. Several people are going over here from other States with all kinds of ideas in their heads and they also publish all sorts of pamphlets and papers which are not of a kind which really suits our tastes here. Even for that we must have something. That is why I said it is necessary.

Mr. E. Ikkanda Warriar.—Section 93?

Mr. T. S. Narayana Ayyar.—Section 93 is not ample. It does not cover. Then with regard to the apprehension of the Member for Ezhuvas, that even if he does anything unwittingly he may be hauled up and all that; probably he is not aware of the explanation to Section 139 (A) of the Penal Code, which says, that it does not amount to an offence, within the meaning of the section, to point out, 'without malicious intention and with an honest view to their removal, matters which are producing or

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have a tendency to produce, feelings of enmity, etc'. So that, if man unwittingly does a thing for the removal of the real disturbing cause, that will not be considered an offence at all. Now all Members have virtually conceded that to have the law is good. Still they do not agree with me in thinking that the pulication ought not to be allowed, which I think is really dangerous.

President.—The motion before the House is that the Criminal Law Amendment Bill be read in Council.

Question put and negatived.

Cochin Telephone Regulation Amendment Bill.

Mr. T. S. Narayana Ayyar.—Sir, I beg to move to amend the Cochin Telephone Regulation, V of 1096 and that only in one particular. That is with regard to the definition contained in the Regulation of the word "telephone".

Mr. T. K. Krishna Menon.—I second it.

Mr. T. S. Narayana Ayyar.—The section as it stands is this :—

"Unless there be something repugnant to the subject of context telephone means an electric, galvanic or magnetic telephone and includes appliances and apparatus for making, transmitting telephone messages or other communications by means of electricity, galvanism or magnetism". The change that has to be made is this, to merely add the word 'receiving'.

"Telephone means an electric, galvanic or magnetic telephone and includes appliances and apparatus for making, transmitting, or receiving telephone messages or other communications, by means of electricity galvanism or magnetism".

This is merely meant to include the apparatus for receiving messages also. The section at present is not wide enough to include that.

President.—The motion before the House is that the Bill to amend the Cochin Telephone Regulation be read in Council.

Motion put and carried.

Secretary to the Council:—The title of the Bill is "The Cochin Telephone Regulation Amendment Bill".

Mr. T. S. Narayana Ayyar.—I would request the President to suspend Standing Order 32 so that the Bill may be taken up for consideration.

Leave granted.

Mr. T. S. Narayana Ayyar.—Then Sir, with your leave, I move that it be taken up for consideration in this Council.

Mr. T. K. Krishna Menon.—I second it.

President.—The motion before the House is that the Cochin Telephone Regulation Amendment Bill be taken up for consideration in this Council itself.

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